

NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

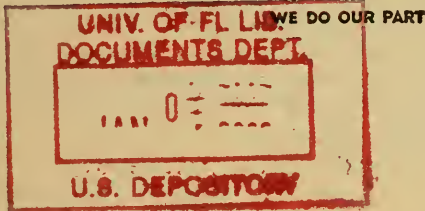
FOR THE

COMPRESSED AIR INDUSTRY

AS APPROVED ON OCTOBER 11, 1933

BY

PRESIDENT ROOSEVELT



1. Executive Order
2. Letter of Transmittal
3. Code

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EXECUTIVE ORDER
CODE OF FAIR COMPETITION
FOR THE
COMPRESSED AIR INDUSTRY

An application having been duly made, pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933 for my approval of a Code of Fair Competition for the Compressed Air Industry, and hearings having been held thereon and the Administrator having rendered his report containing an analysis of the said Code of Fair Competition, together with his recommendations and findings with respect thereto, and the Administrator having found that the said Code of Fair Competition complies in all respects with the pertinent provisions of Title I of said Act and that the requirements of clauses (1) and (2) of subsection (a) of Section 3 of the said Act have been met:

NOW, THEREFORE, I, Franklin D. Roosevelt, President of the United States, pursuant to the authority vested in me by Title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, do adopt and approve the report, recommendations, and findings of the Administrator and do order that the said Code of Fair Competition be and is hereby approved.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,

October 11, 1933.

Approval recommended:

HUGH S. JOHNSON,

Administrator.

(III)

OCTOBER 9, 1933.

THE PRESIDENT,

The White House, Washington, D.C.

MY DEAR MR. PRESIDENT: I have the honor to submit and recommend for your approval, the Code of Fair Competition for the Compressed Air Industry.

The following documents are included or attached:

1. Executive Order
2. Report of Deputy Administrator
3. Industrial Advisory Board Approval
4. Labor Advisory Board Approval
5. Consumers' Advisory Board Approval
6. Legal Division Approval
7. Research and Planning Approval
8. Research and Planning Report (Statistical)
9. Original Letter of Transmittal from Industry
10. Assent of Industry
11. Notice of Hearing
12. Authorization of Code Committee to Act
13. List of Witnesses
14. Constitution and By-Laws of Association
15. Transcript of Hearing

An analysis of the provisions of the Code has been made by the Administrator. I find that the Code complies with the requirements of the National Industrial Recovery Act.

I am, my dear Mr. President,

Very sincerely yours,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION FOR THE COMPRESSED AIR INDUSTRY

ARTICLE I—PURPOSE

To effectuate the policy of Title I of the National Industrial Recovery Act, the following provisions are submitted as a Code of fair competition for the Compressed Air Industry, and upon approval by the President shall be the standard of fair competition for this Industry.

ARTICLE II—DEFINITIONS

The term "compressed air industry" as used herein is defined to mean the manufacture for sale of air and gas compressors (requiring more than 10 H.P.), reciprocating vacuum pumps and pneumatic machinery and/or parts thereof other than refrigeration equipment. The term "person" as used herein shall include but without limitation natural persons, partnerships, associations, trusts, trustees, trustees in bankruptcy, receivers, and corporations. The term "employer" as used herein shall include every person actively engaged in the manufacture for sale of the products of the compressed air industry as herein defined. The term "effective date" as used herein is defined to be the eleventh day after this Code shall have been approved by the President of the United States.

ARTICLE III—APPLICANT

This Code is presented by COMPRESSED AIR INSTITUTE, a trade association, all the members of which are engaged in the manufacture for sale of the products of the compressed air industry as herein defined, in association with Machinery and Allied Products Institute, of which Compressed Air Institute is a constituent member.

ARTICLE IV—EMPLOYMENT

As required by Section 7 (a) of Title I of the National Industrial Recovery Act, it is hereby provided:—

"1. That employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection:

"2. That no employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing; and

3. That employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President."

ARTICLE V—WAGES

(a) On and after the effective date no employer shall employ any one under the age of 16 years; provided, however, that where a state law provides a higher minimum age, no person below the age specified by such state law shall be employed within that state.

(b) On and after the effective date the minimum wage that shall be paid by any employer to any unskilled employee engaged in the production of the products of the compressed air industry and in labor operations directly incident thereto shall be 40 cents per hour, unless the rate per hour for the same class of labor on July 15th, 1929, was less than 40 cents, in which case the rate per hour paid shall be not less than the rate per hour paid on July 15th, 1929, and provided, that in no event shall the rate per hour paid be less than 35 cents, and provided also that learners (other than apprentices as defined in paragraph (d) of this Article V) may be paid not less than 80 percent of such minimum wage but the total number of learners shall not exceed 5 percent of the total number of employees covered by the provisions of this paragraph (b) and provided, further, that after three months of work learners shall be paid not less than the minimum wage herein provided.

(c) On and after the effective date the minimum wage that shall be paid by any employer to all employees other than those engaged in the production of the products of the compressed air industry and in labor operations directly incident thereto shall be at the rate of \$15 per week, whether calculated on an hourly, weekly, monthly, piece-work, or any other basis in accordance with the usual custom of the employer, provided, however, that office boys or girls may be paid not less than 80 percent of such minimum wage, but the total number of such office boys or girls shall not exceed 5 percent of the total number of employees covered by the provisions of this paragraph (c).

(d) Nothing in this Article V shall apply to, or affect a bona-fide apprentice employed under a system or course of training which, when completed, will make the apprentice a skilled mechanic.

(e) Not later than 90 days after the effective date each employer in the compressed air industry shall report to the Administrator through the Supervisory Agency, hereinafter provided for, the action taken by such employer in adjusting the hourly wage rates for all employees receiving more than the minimum rates provided in paragraph (b) of this Article V, but receiving less than \$35 per week of regular work period.

ARTICLE VI—HOURS

On and after the effective date no employer shall employ any employee except executives, administrative, supervisory, and technical employees and their respective staffs, who are paid at the rate of \$35 or more per week, traveling, sales and service employees, watch-

men, and firemen, in excess of 40 hours per week, provided, however, that these limitations shall not apply to conditions of seasonal or peak demand which create an unusual and temporary burden for production or installation; in such special cases such number of hours may be worked as are required by the necessities of the situation, but not to exceed 48 hours per week for any 6 weeks in any calendar 6 months' period; and provided further, that these limitations shall not apply to employees on emergency, maintenance, or repair work, or to very special cases where restriction of hours of highly skilled workers would unavoidably reduce or delay production. Where in any case an employee whose hours of work are herein specified (other than salaried employees) shall work in excess of 8 hours per day at least time and one third shall be paid for the excess hours worked.

ARTICLE VII—ADMINISTRATION

Compressed Air Institute is hereby designated an agency for promoting the performance of the provisions of this Code by the members of the compressed air industry; provided, however, that no inequitable restrictions upon membership in such Institute shall at any time be imposed.

With a view to keeping the President of the United States and the Administrator informed as to the observance or non-observance of this Code, and as to whether the compressed air industry is taking appropriate steps to effectuate in all respects the declared policy of the National Industrial Recovery Act, each employer shall, when required by the Supervisory Agency, prepare and file with such person or organization as the Supervisory Agency may designate, an earnings statement and balance sheet in a form prescribed by the Supervisory Agency. Each employer shall likewise prepare and file with such person or organization as the Supervisory Agency may designate and at such times and in such manner as may be prescribed, statistics of plant capacity, volume of production, volume of sales in units and dollars, orders received, unfilled orders, stocks on hand, inventory, both raw and finished, number of employees, wage rates, employee earnings, hours of work, and such other data or information as the Supervisory Agency may from time to time require. In addition to information required to be submitted to the Supervisory Agency, there shall be furnished to Government agencies such statistical information as the Administrator may deem necessary for the purpose recited in Section 3 (a) of the National Industrial Recovery Act.

ARTICLE VIII—SUPERVISORY AGENCY

To administer and supervise, and to facilitate the enforcement of the provisions of, this Code there shall be a committee of five members connected with the compressed air industry called the Supervisory Agency. The President or the Administrator may appoint not more than three additional members without vote. The committee shall be elected at a meeting of employers called immediately after the approval by the President of this Code and held immediately prior to the effective date thereof. The meeting shall be

called by Compressed Air Institute, and notice thereof shall be sent by telegraph and registered mail to all known manufacturers in the compressed air industry. The notice shall specifically state that voting at the meeting may be in person or by proxy. The members of the committee shall be elected by a vote of the employers present in person or by proxy at such meeting passed in two ways:

(a) One member, by a majority vote of employers present in person or by proxy as such and

(b) Four members, by a 51% vote by employers present in person or by proxy weighted on the basis of one vote for each \$50,000 of sales of products of the industry made in the calendar year 1932 as reported to the Secretary of Compressed Air Institute, but each employer shall have at least one vote. Members of the Committee to fill vacancies due to death or resignation or because a member thereof has ceased to be connected with the industry shall be elected at meetings of employers called by Compressed Air Institute on at least ten (10) days notice by registered mail sent to all known manufacturers in the compressed air industry. At such meetings the vote shall be taken in the manner hereinabove described.

If formal complaint is made to Compressed Air Institute or to the Supervisory Agency that the provisions of this Code have been violated by any employer, the supervisory agency or the proper supervisory committee hereinafter provided for shall make such investigation as in its opinion is necessary.

ARTICLE IX—STATISTICS CONFIDENTIAL

Except as otherwise provided in the National Industrial Recovery Act, all statistics, data, and information filed in accordance with the provisions of Article VII shall be confidential; and the statistics, data, and information of one employer shall not be revealed to any other employer, except that for the purpose of facilitating the administration and enforcement of the provisions of this Code the Supervisory Agency, by their duly authorized representatives (who shall not be in the employ of any employer affected by this Code), and the Administrator shall have access to any and all statistics, data, and information that may be furnished in accordance with the provisions of this Code.

ARTICLE X—OPEN TO ALL EMPLOYERS

Any member of the compressed air industry is eligible for membership in the Compressed Air Institute. Any employer shall be entitled to vote on and share in the benefits of the activities of the Supervisory Agency, and may participate in any endeavors of Compressed Air Institute in the preparation of any revisions of or additions or supplements to this Code by accepting his proper pro rata share of the reasonable cost of creating and administering it, as determined by the Supervisory Agency.

ARTICLE XI—ACCOUNTING AND COSTING

Every employer shall use an accounting system which conforms to the principles of and is at least as detailed and complete as the

uniform and standard method of accounting and the uniform and standard method of costing to be formulated or approved by the Supervisory Agency, with such variations therefrom as may be required by the individual conditions affecting any employer or group of employers and as may be approved by the Supervisory Agency and made supplements to said formulated or approved methods of accounting and costing.

ARTICLE XII—NO SELLING BELOW COST

No employer shall sell or exchange any product of his manufacture at a price or upon terms or conditions that will result in the customer paying for the goods received less than the cost to the seller, determined in accordance with the uniform and standard method of costing hereinabove prescribed, provided, however,

1. That inventories which must be converted into cash to meet emergency needs, dropped lines or seconds, may be disposed of in such manner and on such terms and conditions as the proper supervisory committee may approve and as are necessary to move such products into buyers' hands, and provided, further,

2. That selling below cost in order to meet existing competition on products of equivalent design, character, quality, or specifications shall not be deemed a violation of this Article if provision therefor is made in supplemental Codes for any branch or sub-division of the industry, which may be hereafter prepared and duly approved by the President.

ARTICLE XIII—PRICE LISTS

If the Supervisory Agency determines that in any branch or sub-division of the compressed air industry it has been the generally recognized practice to sell a specified product on the basis of printed net price lists, or price lists with discount sheets and fixed terms of sale and payment, each manufacturer of such product shall within ten (10) days after notice of such determination file with the Supervisory Agency a net price list or a price list and discount sheet, as the case may be, individually prepared by him, showing his current prices, or prices and discounts, and terms of sale and payment, and the Supervisory Agency shall immediately send copies thereof to all known manufacturers of such specified product. Revised price list and/or discount sheets may be filed from time to time thereafter with the Supervisory Agency by any manufacturer of such product, to become effective upon the date specified therein, but such revised price lists and/or discount sheets shall be filed with the Supervisory Agency twenty (20) days in advance of the effective date, unless the proper Supervisory Committee shall authorize a shorter period. Copies of such revised price lists and /or discount sheets with notice of the effective date specified, shall be immediately sent to all known manufacturers of such product, who thereupon may file, to become effective upon the date when the revised price list and/or discount sheet first filed shall go into effect, revisions of their price lists and/or discount sheets establishing prices or prices and discounts not lower than those established in the revised price lists and/or discount sheets first filed.

If the Supervisory Agency shall determine that in any branch or subdivision of the compressed air industry not now selling its product on the basis of price lists, with or without discount sheets, with fixed terms of payment, the distribution or marketing conditions in said branch or subdivision are the same as or similar to the distribution or marketing conditions in a branch or subdivision of the industry where the use of price lists, with or without discount sheets, is well recognized, and that a system of selling on net price lists or price lists and discount sheets with fixed terms of payment should be put into effect in such branch or subdivision, each manufacturer of the product or products of such branch or subdivision shall within twenty (20) days after notice of such determination file with the Supervisory Agency net price lists or price lists and discount sheets, containing fixed terms of payment, showing his prices and discounts and terms of payment, and such price lists and/or discount sheets may be revised in the manner hereinabove provided.

The Supervisory Agency shall have power on its own initiative or on the complaint of any employer to investigate any price for any product shown in any net price list or price list with discount sheet filed with the Supervisory Agency by any employer, and, for the purpose of the investigation thereof, to require such employer to furnish such information concerning the cost of manufacturing and selling such product as the Supervisory Agency shall deem necessary or proper for such purpose. If the Supervisory Agency after such investigation shall determine that such price is an unfair price for such product, having regard to the cost of manufacturing and selling such product, and that the maintenance of such unfair price may result in unfair competition in the industry and be contrary to the spirit of the National Industrial Recovery Act, the Supervisory Agency may require the employer that filed the list or discount sheet in which such unfair price is shown to file a new list or discount sheet showing a fair price for such product, which fair price shall become effective immediately upon the filing of such list or discount sheet. If such employer shall not within ten (10) days after notice to it of such determination by the Supervisory Agency file a new list or discount sheet showing such fair price for such product, the Supervisory Agency shall have power to fix a fair price for such product, which fair price, however, shall not be more than the price of any other employer at that time effective for such product, and in respect of which the Supervisory Agency shall not theretofore have begun an investigation or a complaint shall not have been made by any employer. When the decision of the Supervisory Agency fixing such fair price shall have been filed with the Secretary of Compressed Air Institute and the Secretary shall have given notice thereof to such employer, such fair price shall be the price for such employer for such product until it shall have been changed as in this Code provided.

No employer shall sell directly or indirectly by any means whatsoever, any product of the industry covered by the provisions of this Article at a price lower or at discounts greater or on more favorable terms of payment than those provided in his current net price lists or price lists and discount sheets. The operation of this Article XIII shall at all times be subject to review by the Administrator.

ARTICLE XIV—DISTRIBUTORS REALES

No employer shall cooperate in the violation of this Code by selling to or through any distributor who does not agree to resell only in accordance with the provisions of this Code. This Article shall be in effect until the approval by the President of a Code for such distributors.

ARTICLE XV—EXPORT SALES

The provisions of this Code concerning sales shall not apply to direct export sales of any product, or to sales of any product destined ultimately for export, or to sales of parts used in the manufacture of products for export. The term "export" shall include shipments to foreign countries and to the territories and possessions of the United States.

ARTICLE XVI—INDUSTRY GROUPS

Aggregations of employers having a common interest and common problems will be grouped by Compressed Air Institute for administrative purposes in various sub-divisions or product classifications and report of such grouping made to the Administrator. In each sub-division or product classification there will be a supervisory committee appointed by the Supervisory Agency and report thereof made to the Administrator.

ARTICLE XVII—STATUS PRIOR TO EFFECTIVE DATE

Prior to its approval by the President, applicant may at any time change or modify any provision of this Code (except those provisions required by Sections 7 (a) and 10 (b) of the Act), or may withdraw this Code.

The applicant will not be deemed to have consented to any change or modification of this Code which may be effected by the President's order of approval, unless such change or modification is submitted to the applicant and consented to by the applicant.

ARTICLE XVIII—RIGHTS OF PRESIDENT

The President may from time to time cancel or modify any order, approval, license, rule, or regulation issued under Title I of the National Industrial Recovery Act.

ARTICLE XIX—AMENDMENTS AND ADDITIONS

Such of the provisions of this Code as are not required by the National Industrial Recovery Act to be included herein may, with the approval of the President of the United States, be modified or eliminated as changed circumstances or experience may indicate. This Code is intended to be a basic Code, and study of the trade practices of the compressed-air industry will be continued by the Executive Committee of Compressed Air Institute with the inten-



tion of submitting, from time to time, to the Administrator for approval additions to or revisions of this Code applicable to all employers in the compressed-air industry and supplemental Codes applicable to one or more branches or subdivisions or product classifications of the compressed-air industry, such supplemental Codes, however, to conform to and be consistent with the provisions of this Code as now constituted or hereafter changed.

ARTICLE XX—SEGREGATION OF INDUSTRY

If any employer of labor in the compressed-air industry is also an employer of labor in any other industry, the provisions of this Code shall apply to and affect only that part of his business which is included in the compressed-air industry.

